

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/ GREENWOOD DIVISION

Bridget Manick,)	
)	
Plaintiff,)	C/A No.: 8:12-cv-00012-GRA
)	
v.)	ORDER
)	(Written Opinion)
Red Lobster Inns of America, Inc., d/b/a)	
Red Lobster,)	
)	
Defendant.)	
_____)	

This matter comes before the Court for review of United States Magistrate Judge Jacquelyn D. Austin's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(g) of the District of South Carolina, and filed on February 21, 2013. Magistrate Judge Austin recommends that this Court grant Defendant's Motion to Dismiss. Report and Recommendation, ECF No. 24. This Court adopts the Report and Recommendation in its entirety.

Plaintiff Bridget Manick ("Plaintiff") brought this claim pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. §§ 2000e *et. seq.*, in the Anderson County Court of Common Pleas. Compl., ECF No. 1-1. On January 3, 2012, Defendant GMRI, Inc. d/b/a Red Lobster ("Defendant") filed its notice of removal of

this case to federal court pursuant to 28 U.S.C. § 1446(b).¹ Def.'s Notice of Removal, ECF No. 1. After the case was removed to federal court, the Parties stipulated that Plaintiff was bound by an employment agreement to submit any claims arising out of her employment with Defendant to arbitration. ECF No. 6. Accordingly, Magistrate Judge Austin ordered that the case be compelled to arbitration, and stayed the case in this Court pending its resolution in arbitration. ECF No. 8.

The arbitration proceeding concluded on September 7, 2012 and the Court lifted the stay on the action. ECF No. 16. The arbitrator dismissed Plaintiff's claims with prejudice for Plaintiff's failure to comply with the statutes of limitation agreed upon by the Parties in a Dispute Resolution Process Acknowledgement. Order Granting Resp.'s Mot. to Dismiss Arbitration, Def.'s Ex. A, ECF No. 18-1. Currently pending before this Court is Defendant's Motion to Dismiss in which Defendant contends that Plaintiff's claims should be dismissed because the arbitrator's order operates as "a final judgment on the merits of [Plaintiff's] claims" Def.'s Mot. to Dismiss, ECF No. 18. Magistrate Judge Austin recommends that this Court grant Defendant's Motion. Report & Recommendation, ECF No. 24.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71

¹ Plaintiff named Defendant as "Red Lobster Inns of America, Inc., d/b/a Red Lobster" in the Complaint, but the Defendant is properly identified as "GRMI, Inc. d/b/a/ Red Lobster." See Def.'s Notice of Removal, ECF No. 1.

(1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* "The failure to file objections to the report and recommendation waives any further right to appeal." *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); *see Carter v. Pritchard*, 34 F. App'x 108, 108 (4th Cir. 2002) (per curiam). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). In this case, objections were due by March 11, 2013. Neither Defendant nor Plaintiff filed any objections to the Magistrate Judge's Report and Recommendation.

After a review of the record, this Court finds that the Report and Recommendation accurately summarizes the case and the applicable law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that Defendant's Motion to Dismiss is GRANTED and that Plaintiff's claims are DISMISSED with prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "G. Ross Anderson, Jr.", written over a horizontal line.

G. Ross Anderson, Jr.
Senior United States District Judge

April 8, 2013
Anderson, South Carolina